

M E M O R A N D U M

Date: April 27, 2006

To: Interested Persons

From: George A. Twiss, Executive Director

Subject: Concise Explanatory Statement for Rules
filed as WSR 06-06-061 and WSR 06-06-060
Continuing Professional Development for professional land surveyors

WAC 196-16 – REGISTERED PROFESSIONAL LAND SURVEYORS
WAC 196-27A – RULES OF PROFESSIONAL CONDUCT AND PRACTICE

Copies of the proposed rules were sent out to all licensed Professional Land Surveyors, and were posted on the Board's website. Public comment hearings were held on April 19, 2006, 6:30 p.m. at the La Quinta Inn, 1905 N Wenatchee Ave, Wenatchee, WA; April 20, 2006, 6:30 p.m. at the Spokane Airport Ramada, 8909 Airport Drive, Spokane, WA; and, April 26, 2006, 6:30 p.m. at the La Quinta Inn, 1425 E 27th Street, Tacoma, WA.

The rules were adopted by motion of the Board of Registration for Professional Engineers and Land Surveyors during their meeting on April 27, 2006, at the La Quinta Inn, 1425 E 27th Street, Tacoma, WA.

REASON FOR ADOPTION

The rules adopted to amend chapters 196-16 and 196-27A WAC were made to implement the provisions of RCW 18.43.080.

DIFFERENCE IN THE PROPOSED RULE AND THE ADOPTED RULE

WSR 06-06-061 - There was one minor edit to correct a typographical error.

Under WAC 196-16-120 Units, there is a numerical listing of qualifying activities, and there were two numbered 5. The latter one was changed to 6 since no number 6 existed.

WSR 06-06-060 – Adopted as proposed.

SPECIAL ITEM OF NOTE

In considering the adoption of these rules the Board felt that several comments had merit toward possible future changes. It was their expectation that, while they moved to adopt these rules as published, they would work with stakeholders to refine and restructure the adopted rules to incorporate the beneficial input from stakeholders in the months ahead.

SUMMARY OF COMMENTS

The following is a summary of the comments and the Board response.

Comment – Objection to new regulations

The State Government's answer to all problems is to pass more law with no means to enforce them. There are enough laws on the books now that need to be revoked or done away with.

Response

The legislature enacted this provision at the request of the members of the Land Surveyors Association of Washington.

Comment – Impacts on dual licensees

Ever since I was originally licensed in 1968 I have carried the dual license of professional civil engineer and land surveyor. I am concerned as to how the new surveyor requirement will affect my license which is due for renewal on July 6 of this year (2006). Will my license be renewed for the upcoming two year period or will it be held or split into the two categories?

Response

Your renewal scheduled for July 6 will be transacted as before. You will be asked to pay a single fee of \$100 (recently reduced) to renew the combined license you have. When the compliance requirements become effective on July 1, 2007, all individuals who now have a combined license will be treated as having two licenses requiring two separate renewal transactions. When your next renewal comes due in July 2008, you may or may not (your choice) to renew either or both depending upon what your practice needs are.

Comment – What about limited practice?

It seems somewhat unfair to be required to complete the continuing education credits for the small amount of survey work that I do. However, I do enjoy the work and would prefer to continue at my present pace without having to meet the PDH requirements. Are there any provisions for exceptions in the law for old timers like

me? There could be a clause allowing a minimal amount of survey work and stay within the law.

At the meeting I attended in Federal Way it was suggested that retired persons be exempt for this new ruling. I realize that I am thinking about my own situation but feel this might be the way to go. Being over seventy years old I do not do a lot of survey work however one never knows.

Response

The provisions enacted made no accommodation for how much or how frequent an individual practices. If you wish to practice as a professional land surveyor, if even for only one project each year, you must comply with the continuing professional development requirements in these rules.

Comment – Can the Board put information on web site?

As a PLS since 1983 I favor the proposed rule change, provided a yearly program of continuing education is made available that takes into consideration the busy summer months. My concern is that although the Federal agency I work for supports and encourages education; the scheduling of any training or education is preferred outside the construction window of May through September. I will be in Montana from May through August and would not attend any continuing education credits via personal attendance during this period.

I maintain my license for two reasons one of which the agency takes pride in having profession staff to develop and manage their construction projects. The second reasons is that every project I have managed included a large surveying component with unclear specifications of what was requiring the use of professional services and what was simply technical services. So to me maintaining a valid license is essential, although not required.

I have one question is it possible that the board could consider maintain a web site for continuing education or links thereto?

Response

As this program moves along the Board has already considered keeping a list of programs, seminars etc. that will have been previously acceptable to the Board during their audit of individual renewals. As this list is developed we will make the information available on our web site.

Comment – Board approvals of credit

I am concerned about the wording of WAC 196-16-120. If the Board does not define Qualifying Activities, how will I know if my continuing education is valid? There appears to be no recourse to demonstrate my activities are relevant. I will simply get a notice my license is considered expired. What about my clients? Am I forced into the jaws of the shark that promises, "For only \$600, our salesman will certify you for the latest in laser scanning technology. PDH...we can give them to you." But, wait, there is no guarantee the board will honor any vendor's courses. This whole area of determining and rebutting qualifying activities needs to be explained.

Response

The rules are specifically structured to give licensees the benefit and flexibility to select programs that are most fitting for their particular needs. More importantly, is to understand that these rules are structured and called Continued Professional Development. As such, the scope and variety of acceptable courses and seminars will be very liberally applied and judged as being relevant to one's practice as a professional, not merely a land surveyor.

WAC 196-16-135 states: "If an audit disqualifies credits that were reported to the Board by a licensee and results in the licensee failing to complete the PDH requirements, the Board may renew the license and require the shortage to be made up in the subsequent renewal period."

Comment – Requirements of continuing professional development

Continuing Education requires me to gain a full understanding of subdivision using the Three Mile Rule, and Platting Requirements of the BIA. I have been searching out "vendors" that would find it profitable enough to hold seminars on these issues. To date, I have found none. This leaves me on the path of self study and consultation with the BIA. Yet according to WAC 196-16-130 you expect me to gain a full understanding of these rules...in 5 hours? I bet I spend 20 hours before I get a full understanding of BIA-Tribal requirements. Does this not qualify as Continuing Education? Would this activity qualify under section 11? I have no idea if the Board would consider the BIA as a technical or professional society. Then there is the question of my participation as an employer providing courses on technology or management skills. Would this qualify under section 10, or is this just a "gim-me" to the big guys? I see you added First Aid/Safety meetings with no limits at an hour per hour basis. How on Earth will learning CPR help me become a better surveyor? Are you really saying monthly safety meetings will qualify for 12 PDH, while my study of the Three Mile Rule can only qualify for 5 PDH?

Response

In the rules that were adopted there is no language that, ...”requires you to gain a full understanding of subdivision using the Three Mile Rule and platting requirements of the BIA”. What training you need to perform the work you do, where to obtain it and how frequently you need refreshment on the subject(s) is for only you to say. Existing rules of professional conduct obligate all licensees to maintain competency and work only in the areas of practice where they are competent.

Training obtained from or through employment is specifically allowed and may also be applicable in other categories so that you could possibly gain credit for your full commitment of 20 hours. If obtained in a one year time period then you could possibly have 5 hours carried forward to the next year.

Growth as a well-informed and competent professional can take the form of many subjects and opportunities. Keep in mind that this is a program for “Continued Professional Development”, not merely continued education of surveying topics.

Comment – Editorial suggestions

WAC 196-16-115: the phrasing was ambiguous as to whether the licensee or the activities were to be demonstrated as relevant.

WAC 196-16-155: several occurrences where a singular subject was followed by a plural pronoun.

WAC 196-16-130: the ending phrase would allow excess credits to be rolled over through an indefinite number of renewal periods until entirely exhausted. Taking a one semester, six credit hour course in Contracting would generate 270 PDH. That credit could be used for the following nine renewal periods. I have shown an example of wording that would allow the roll over to occur only one time.

Wording: *Credits gained in excess of the 15 PDH annual requirements may be carried forward to the next renewal period following the renewal period in which the credits were collected.*

WAC 196-16-135: an occurrence of a singular subject followed by a plural pronoun.

Response

Thank you for your detailed comments and proposed editorial changes. Please see “SPECIAL ITEM OF NOTE” above.

Comment – Work on technical committee

The idea that things other than classes can be used to satisfy education requirements is quite appealing to me. I do believe that there should be some examples of what constitutes qualification for WAC 196-16-130. We sometimes meet informally with other surveyors who participate in the Washington State Reference Network as we do. These sessions are generally limited exclusively to the issues at hand regarding GPS and improvement of the network. Since there is a meeting date scheduled in advance, would this qualify as an “organized meeting”. Things may change but right now our group is on the front edge of this technology and are acting as guinea pigs for several somewhat experimental procedures.

Response

The example you discuss would certainly fit within the meaning and intent of WAC 196-16-120(8). It may also apply in other categories.

Comment – Work on subdivision code committee

Would my work in meetings of a subdivision committee where I am help to develop platting codes be eligible?

Response

While we cannot say with certainty whether and how much credit can be gained in that activity, WAC 196-16-120(9) would seem to apply.

Comment – What is a book?

What constitutes a book? I have written a synopsis of City platting regulations that are handed out to other private surveyors, does that qualify if it is printed and bound by the City?

Response

The Board did not attempt to further define what a “book” is for the purposes of these rules. If your renewal were selected in the future for audit then there would be an opportunity for the Board to answer this question.

Comment – Cost of continuing education

I estimate the cost of continuing education for any company, large or small, to be a minimal but necessary expenditure of time and money. It is my opinion that a professional in any profession would not need to be required or hesitate to pay for any continuing education studies, in so doing is what makes the professional a professional.

Response

Thank you for your comments.

Comment – Limits on attending meetings

It appears that some of the activities listed in WAC 196-16-120 awards some PDH hours for belonging to professional/Technical societies or Government Committees or board, or 5. attending those meetings will be awarded with some PDH's, but not to exceed a certain amount—why would there be a limit if attending these meetings or boards is beneficial. I also notice that (7.) should require a teaching degree to be valid in the state.

Response

The thinking behind the limits on attending meeting is so that individuals do not base their entire program of professional development in that one area. And, while attendance at meeting is beneficial, it is not as beneficial as participating in actual training program or such.

Comment – Longevity

Experience should be considered a big faction in this legislation and a number of PDH's hours should be given for the time a professional land surveyor has held a valid license.

Response

There is little doubt that those individuals with many years of practice have more knowledge and understanding then those being licensed for a short time. However, it is no less important for the veteran practitioner to continue their professional development then those who most recently gained licensure.

Comment – Comparison with other state CE program

Much of what has been done is very similar to the other states in which I am licensed. That is great. I will point out the differences with discussion on why I believe it needs to be changed.

Each publication 10 PDH, each book 30 PDH. Of the other states in which I am licensed, none give any additional credit for a book over a paper. Therefore, the 30 PDH should be dropped.

Membership in professional / technical societies or government committees or boards. It is difficult enough to get most people to sacrifice the time necessary to put

together good meetings and programs, let alone attend the meetings. Membership itself should not be a reason to get credits. Attendance at those meetings is worth the credit, as long as worthwhile business is conducted. The people who do attend put in long hours, and should be rewarded for their efforts in our behalf. To limit that to 5 hours of credit is not fair or equitable. The limit should not be there, and none of the other states I am licensed in limit it.

Attendance at professional or technical society meetings – max 5 /year. The same may be said about this subject.

Attendance at Board Meetings – max 7-1/2 /year. Some board meetings I have attended were flat, boring, and a waste of my time. Those typically were the ones I attended just to go on my own. There were other times when I went as a member of the peer review committee to review the practice of another surveyor who had transgressed the law. ... That time was very well spent on my part, and I learned a lot about the workings of the board, and how meticulous and careful they were in revoking a license. Limiting that to only 7-1/2 hours of credit would be likewise unfair, and is not limited by the other states in which I practice.

One PDH for each hour of self-study – max 5 / year. We had much discussion in Nevada about this one, and left it out. My personal feeling was that it should have been left in for those in remote areas.

WAC 196-16-160 Comity/Out-of-Jurisdiction Resident – This generally reads ok, as long as the terminology and wording does not change when it goes to law such that I would be required to fill out the Washington form. I have been filling out the Nevada form for a long time, and converting over to Washington when I moved here should be a matter of election on my part, not force by Washington law.

Response

Thank you for your detailed comments and proposed editorial changes. Please see “SPECIAL ITEM OF NOTE” above.

Cc: Walt Farher, DOL Rules Coordinator
Division rules coordinator
Board Members